

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

SANTIAGO FRANCISCO and	:	
EUFEMIA GOMEZ,	:	
Plaintiffs	:	Civil Action No.
v.	:	
	:	
S&H EXPRESS, INC. AND	:	<i>Electronically Filed</i>
TRAVIS BELCHER, ET AL,	:	
Defendants	:	

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEW JERSEY**

**NOTICE OF REMOVAL**

Defendants, S&H Express, Inc. ("S&H") and Travis Belcher ("Belcher") (collectively "Removing Defendants"), by and through their undersigned counsel, Reager & Adler, P.C., pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and with a full reservation of any and all rights, claims, objections and defenses, hereby file this Notice of Removal from the Superior Court of New Jersey, Law Division, Middlesex County, in which the action is now pending under Docket No. MID-L-001724-19 ("State Court Action") to the United States District Court for the District of New Jersey, and respectfully states:

1. In accordance with Local Civil Rule 10.1(a), the addresses of the named parties are as follows:

a) Plaintiff, Santiago Francisco alleges in both the Complaint and the First Amended Complaint, that at all material times, he is a resident of the State of New Jersey, has resided at 284 Commercial Avenue, New Brunswick, Middlesex County (South of the Raritan River), State of New Jersey 08901, and is represented by Eugene S. Wishnic, Esq. of Wishnic & Jerushalmy, 146 Livingston Avenue, New Brunswick, New Jersey 08901.

b) Plaintiff, Eufemia Gomez alleges in both the Complaint and the First Amended Complaint, that at all material times, she is a resident of the State of New Jersey, has resided at 78 Loretto Street, New Brunswick, Middlesex County (South of the Raritan River), State of New Jersey 08901, and is represented by Eugene S. Wishnic, Esq. of Wishnic & Jerushalmy, 146 Livingston Avenue, New Brunswick, New Jersey 08901.

c) Defendant, Travis Belcher, as alleged in both Complaint and the First Amended Complaint, is a resident of the Commonwealth of Pennsylvania, is now domiciled in Lebanon, Pennsylvania, and is represented by Reager & Adler, P.C., 2331 Market Street, Camp Hill, Pennsylvania 17011.

d) Defendant S&H Express, Inc., as alleged in both the Complaint and the First Amended Complaint, is incorporated under the laws of the Commonwealth of Pennsylvania, has a principal place of business located at York, Pennsylvania, and is represented by Reager & Adler, P.C., 2331 Market Street, Camp Hill, Pennsylvania 17011.

### **Procedural History**

2. On or about February 27, 2019, the plaintiffs initiated the State Court Action in the Superior Court of New Jersey, Law Division, Middlesex County. A true and correct copy of Plaintiffs' Complaint filed at number MID-L-001724-19 in the Superior Court of New Jersey, Law Division, Middlesex County, is attached hereto as Exhibit "A."

3. On or about March 13, 2019, the undersigned agreed to accept service of the State Court Action, however, the plaintiffs have not yet filed an Acknowledgement of Service. A true and correct copy of an email exchange between the undersigned and plaintiffs' counsel regarding acceptance of service of the Complaint in the State Court Action dated March 13, 2019, is attached hereto as Exhibit "B."

4. On or about March 20, 2019, the plaintiffs filed an Amended Complaint which added several additional counts against the Removing Defendants. A true and correct copy of Plaintiffs' First Amended Complaint filed in the State Court Action on March 20, 2019, is attached hereto as Exhibit "C."

5. The only other proceeding that has been filed in the State Court Action is the court's issuance of the Track Assignment Notice.

6. No other proceedings have been filed in the State Court Action, and the Complaint, Track Assignment Notice, and Amended Complaint constitute all process, pleadings and filings of which the Removing Defendants are aware.

### **Grounds for Removal**

7. Pursuant to the provisions of Sections 1441 and 1446 of Title 28 of the United States Code, Removing Defendants remove this action to the United States District Court for the District of New Jersey, which is the judicial district in which the action is pending.

8. Plaintiffs' Amended Complaint alleges claims that properly invoke the diversity jurisdiction of this Court, 28 U.S.C. §1332. Plaintiffs' Amended Complaint alleges that Plaintiffs Santiago Francisco and Euphemia Gomez were both injured in a motor vehicle accident that occurred on June 23, 2017. Plaintiffs allege that the Removing Defendants' negligence and carelessness caused a motor vehicle accident whereby Plaintiffs suffered a litany of serious, severe and permanent injuries. Plaintiffs' Amended Complaint further alleges punitive damages against the Removing Defendants.

9. Removal of this action from the Superior Court of New Jersey, Law Division, Middlesex County to this Court is, therefore, proper under 28 U.S.C. §1441(a) because this Court would have the original jurisdiction of the action under 28 U.S.C. §1332 (Diversity of Citizenship Jurisdiction) had the action initially been filed in this Court.

10. Diversity of Citizenship Jurisdiction is properly invoked by Removing Defendants, pursuant to 28 U.S.C. 1332(a)(1) because:

- (a) A reasonable reading of the Plaintiffs' Amended Complaint establishes that the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000), where both Plaintiffs expressly plead that this is a non-verbal threshold case and seek unlimited damages; that they have both endured multiple, severe and permanent injuries; they both suffered great pain and anguish; incurred medical expenses; and they both will, in the future, be caused to incur further medical expenses. Moreover, the Plaintiffs have alleged punitive damages against the Removing Defendants. See Exhibit "C."
- (b) As alleged in the Amended Complaint, the Plaintiffs have resided in New Brunswick, Middlesex County, New Jersey since at least the date of the motor vehicle accident on June 23, 2017, and have remained domiciled in New Brunswick, Middlesex County, New Jersey until and past the filing of Plaintiffs' Amended Complaint on March 20, 2019. Thus, Plaintiffs are citizens of New Jersey. See Exhibit "C."

- (c) Pursuant to Rule 28 U.S.C. §1332(c)(1), Defendant S&H Express, Inc. is and, at all relevant times, has been a corporation incorporated under the laws of the Commonwealth of Pennsylvania with its principal place of business in York, Pennsylvania. Thus, Defendant S&H Express, Inc. is a citizen of the Commonwealth of Pennsylvania.
- (d) At all relevant times, Defendant Travis Belcher has been a resident of the Commonwealth of Pennsylvania and remains domiciled in Lebanon, Pennsylvania. Thus, Defendant Travis Belcher is a citizen of the Commonwealth of Pennsylvania.
- (e) Service of Process as to Removing Defendants was accepted by the undersigned, and, thus, effectuated on March 13, 2019. See Exhibit "B."

11. In light of the foregoing, this Court has Original Diversity Jurisdiction over this case pursuant to 28 U.S.C. §1332 as the amount in controversy is greater than \$75,000 and the Plaintiffs and Defendants are citizens of different states.

12. The Defendants do not waive any objections, exceptions, or defenses to Plaintiffs' Amended Complaint.

13. Upon filing the within Notice of Removal in the office of the Clerk of the United States District Court for the District of New Jersey, the Defendants also file copies of this Notice with the Clerk of the Superior Court of New

Jersey, Law Division, Middlesex County, to effect removal of this action to the United States District Court pursuant to 28 U.S.C. §§1441 and 1446(b). A true and correct copy of the Notice filed with the Superior Court of New Jersey is attached hereto as Exhibit "D."

14. Neither of the Defendants have previously sought to remove this action.

15. As Removing Defendants S&H Express, Inc. and Travis Belcher are the only properly named defendants, all named and served Defendants join in this request.

16. Pursuant to 28 U.S.C. §1441(b)(1), the citizenship of defendants sued under fictitious names shall be disregarded when determining diversity as U.S.C. §1441(b)(2) requires that only parties joined and served be considered.

17. This Notice is timely under 28 U.S.C. §1446(b) because Plaintiffs' Complaint in this action was filed on February 27, 2019 and the Amended Complaint was filed on March 20, 2019. This Notice of Removal is filed within thirty (30) days of receipt of the Complaint on March 13, 2019, the date by which the Removing Defendants were deemed to have been served, and within one year of the commencement of the action.

WHEREFORE, Defendants, S&H Express, Inc. and Travis Belcher, respectfully request, given that the statutory requirements have been met, that the above-captioned action now pending in the Superior Court of New Jersey, law division, Middlesex County, be removed therefrom to this Court.

Respectfully submitted,

REAGER & ADLER, P.C.

Date: April 3, 2019

/s/ Lane E. Brody  
Lane E. Brody, Esquire  
I.D. No. 010032006  
LBrody@ReagerAdlerPC.com  
2331 Market Street  
Camp Hill, PA 17011  
(717) 763-1383  
(717) 730-7366

*Counsel for Defendants,  
S&H Express, Inc. and Travis Belcher*